

REMARKS

The only issues outstanding in the Office Action mailed December 15, 2006 are the requirement for a restriction and the rejections under 35 U.S.C. 102 and 103. It is noted that claims 5 and 10-12 have been indicated as being allowable.

Reconsideration of the above issues, in view of the following discussion, is respectfully requested.

Requirement For Restriction

Claims 22-29 remain withdrawn, as non-elected. The elected group of claims is drawn to an electro-optical light modulation element, comprising a substrate, an electrode arrangement, and a modulation medium. The non-elected claims are drawn to the modulation medium, *per se*. The modulation medium, for example of claims 23 and 27-29 and 32 are of the same scope as the medium employed in the display element of claim 1. As such, the claims are related as combination to subcombination, inasmuch as the combination (the electro-optical element) requires all the elements of the subcombination, of the modulation medium. In such a situation, *two-way* distinctness must be shown in order to support a restriction requirement. See MPEP § 803. Thus, the claim to the module display element must be useable with a different modulation medium. However, since the claims to the element *require* the modulation medium of the non-elected claims, the required distinctness cannot be shown. Withdrawal of the requirement for restriction is therefore again respectfully requested.

Rejections Under 35 U.S.C. 102 and 103

Claims 1-4, 9, 15 and 17 have been rejected under 35 U.S.C. 102(b) over Saupe et al. '770. Claims 6-8, 13-14 and 18-21 have been rejected under 35 U.S.C. 103 over Saupe et al. Moreover, claim 16 has been rejected under 35 U.S.C. 103, also over Saupe et al., further taken with Abileah et al. '784. Inasmuch as claim 5 is indicated as being allowable, and the features of claim 5 have been incorporated in all of the independent claims, it is submitted that the rejection is moot.

Attention is also directed to the attached Information Disclosure Statement providing an article of Kikuchi et al. Kikuchi et al. discloses mixtures employing a chiral dopant obtained from the present Applicant, "ZLI-4572." See the chapter entitled "Methods," page 67, right hand column, bottom. This compound is also called "R-1011," see page 71, lines 17-23 of the present application. The HTP of R-1011 is $26.7 \mu\text{m}^{-1}$, below the present range of $30 \mu\text{m}^{-1}$ or more. Accordingly, Kikuchi et al. has no impact on the present claims.

The claims of the application are submitted to be in condition for allowance. However, should the Examiner have any questions or comments, he is cordially invited to telephone the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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